

Lalu Vs. State of M.P.

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Court : Madhya Pradesh

Decided On : Feb-08-2005

Reported in : 2005(2)MPHT71; 2005(3)MPLJ50

Judge : A.K. Awasthy, J.

Acts : [Narcotic Drugs and Psychotropic Substances Act, 1985](#) - Sections 8, 21, 42, 50, 52 and 57

Appeal No. : Criminal Appeal No. 571/1999

Appellant : Lalu

Respondent : State of M.P.

Advocate for Def. : M. Soni, Adv.

Advocate for Pet/Ap. : M. Bhatia, Adv.

Disposition : Appeal dismissed

Judgement :

A.K. Awasthy, J.

1. Appellant/accused has filed the jail appeal against the judgment and order dated 26-12-98 in Special Case No. 8/98 by Special Judge NDPS Act, Ratlam of his conviction and sentence under Section 8/21 Narcotics Drugs and Psychotropic

Substance Act (in short 'NDPS Act') for sentence of 15 years rigorous imprisonment and fine of Rs. 1,00,000/- and in default of payment of fine further rigorous imprisonment for the period of 2 years.

2. The prosecution case is that on 14-4-98 at about 9 PM the secret information was received by the Sub-Inspector Bajranglal of CBN and after forwarding the secret information to the higher authority, the Sub-Inspector alongwith the party reached to the Railway Station, Ratlam and the accused was found sitting in the waiting hall and after informing about the secret information, from the bag of the accused the Heroin weighing 1.750 gm was seized vide Ex. P-4 and after extracting the sample from the Heroin the sample packet alongwith the seized item was sealed. That the accused was arrested and he was taken to the office of the Superintendent of the CBN Ratlam where the seized packets were deposited. That the sample packet was sent to the Alcolied Factory, Neemuch, from where it was reported that the seized item was the Heroin.

3. The accused has abjured the guilt and the statement of the prosecution witnesses were denied in his statement under Section 313 and he has pleaded the false implication. No witness in defence was examined.

4. The learned Trial Court after examining 7 prosecution witnesses has held that the Heroin was found in possession of the accused and the provision of Sections 42, 50, 52 and 57 of the NDPS Act were duly followed and as such, the appellants were convicted and sentenced as stated above.

5. The learned Counsel for the appellant has not challenged the conviction of the appellant accused under Section 8/21 of the NDPS Act. From the statement of the Seizing Officer Bajranglal (P.W. 5) and the evidence on record it is clear, that the appellant was found in possession of the Heroin weighing 1.750 gm and all the statutory provisions of the NDPS Act were adhered by the prosecution. Consequently, the learned Counsel for the appellant has rightly not challenged the finding against the appellant holding him guilty under Section 8/21 of the NDPS Act.

6. It is submitted by learned Counsel for the appellant that the appellant is a poor rustic villager and he is Scheduled Caste and also the first offender. It is submitted by the learned Counsel of the appellant that in view of the fact that he is a first offender and poor rustic villager, the sentence of 15 years is excessive and his sentence in default of payment of fine of 2 years is also disproportionate and as such, it should be reduced. The learned Trial Court has observed in Para 20 of the impugned judgment that the appellant is first offender. Appellant is a villager. In the facts and circumstances of the case, the sentence of 15 years appears to be excessive and the direction to undergo the rigorous imprisonment for 2 years in default of payment of fine is also disproportionate. Consequently, the sentence of 15 years is reduced to only 10 years and it is directed that in default of the payment of fine, the appellant accused will undergo further rigorous imprisonment for 6 months only.

7. The conviction under Section 8/21 is maintained. Jail sentence of 15 years is reduced to only 10 years. The sentence of 2 years in default of payment of fine of Rs. 1,00,000/- is also reduced from 2 years to only 6 months.

8. With the aforesaid modification, the appeal is hereby rejected.